

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 496

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO STATE BUILDINGS; AUTHORIZING RENOVATIONS AND
MAINTENANCE AND THE DEVELOPMENT OF PERMANENT EXHIBITS AT STATE
MUSEUMS AND MONUMENTS PURSUANT TO THE STATE OFFICE BUILDING
ACQUISITION BONDING ACT; RENAMING THAT ACT AND THE STATE OFFICE
BUILDING BONDING FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-21C-1 NMSA 1978 (being Laws
2001, Chapter 199, Section 1) is amended to read:

"6-21C-1. SHORT TITLE. -- ~~[Sections 1 through 11 of this
act]~~ Chapter 6, Article 21C NMSA 1978 may be cited as the
"State [Office] Building [Acquisition] Bonding Act".

Section 2. Section 6-21C-3 NMSA 1978 (being Laws 2001,
Chapter 199, Section 3) is amended to read:

"6-21C-3. ~~[DEFINITION]~~ DEFINITIONS. -- As used in the State
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1 [Office] Building [Acquisition] Bonding Act:

2 A. "acquiring" or "acquisition" includes acquiring
3 or acquisition by purchase, construction or renovation; and

4 B. "building bonds" means state office building tax
5 revenue bonds or state museum tax revenue bonds. "

6 Section 3. Section 6-21C-4 NMSA 1978 (being Laws 2001,
7 Chapter 199, Section 4) is amended to read:

8 "6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE [STATE
9 OFFICE] BUILDING [TAX REVENUE] BONDS-- APPROPRIATION OF
10 PROCEEDS. --

11 A. The New Mexico finance authority is authorized
12 to issue and sell revenue bonds, known as "state office
13 building tax revenue bonds", payable solely from the state
14 [office] building bonding fund, in compliance with the State
15 [Office] Building [Acquisition] Bonding Act for the purpose of
16 acquiring state office buildings when the acquisition is
17 authorized by legislative act and the director of the property
18 control division of the general services department certifies
19 the need for the issuance of the bonds.

20 B. The New Mexico finance authority is authorized
21 to issue and sell revenue bonds, known as "state museum tax
22 revenue bonds", payable solely from the state building bonding
23 fund, in compliance with the State Building Bonding Act for the
24 purpose of renovating and maintaining existing structures and
25 developing permanent exhibits at state museums and monuments

1 when the renovation, maintenance or exhibit development is
 2 authorized by legislative act and the state cultural affairs
 3 officer certifies the need for the issuance of the bonds.

4 ~~[B.]~~ C. The net proceeds from the state office
 5 building tax revenue bonds are appropriated to the property
 6 control division of the general services department for the
 7 purpose of acquiring state office buildings, the acquisition of
 8 which shall be consistent with ~~[the purpose of]~~ the State
 9 ~~[Office] Building [Acquisition]~~ Bonding Act and the authorizing
 10 legislation.

11 D. The net proceeds from the state museum tax
 12 revenue bonds are appropriated to the office of cultural
 13 affairs for the purpose of renovating and maintaining existing
 14 structures and developing permanent exhibits at state museums
 15 and monuments, the renovation, maintenance or exhibit
 16 development of which shall be consistent with the State
 17 Building Bonding Act and the authorizing legislation."

18 Section 4. Section 6-21C-5 NMSA 1978 (being Laws 2001,
 19 Chapter 199, Section 5) is amended to read:

20 "6-21C-5. STATE ~~[OFFICE]~~ BUILDING BONDING FUND CREATED--
 21 MONEY IN THE FUND PLEDGED. --

22 A. The "state ~~[office]~~ building bonding fund" is
 23 created as a special fund within the New Mexico finance
 24 authority. The fund shall be administered by the New Mexico
 25 finance authority as a special account. The fund shall consist

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1 of money appropriated and transferred to the fund and gross
2 receipts tax revenues distributed to the fund by law. Earnings
3 of the fund shall be credited to the fund. Balances in the
4 fund at the end of any fiscal year shall remain in the fund,
5 except as provided in this section.

6 B. Money in the state [~~office~~] building bonding
7 fund is pledged for the payment of principal and interest on
8 all [~~state-office~~] building [~~tax-revenue~~] bonds issued pursuant
9 to the State [~~Office~~] Building [~~Acquisition~~] Bonding Act.
10 Money in the fund is appropriated to the New Mexico finance
11 authority for the purpose of paying debt service, including
12 redemption premiums, on the [~~state-office~~] building [~~tax~~
13 [~~revenue~~] bonds and the expenses incurred in the issuance,
14 payment and administration of the bonds.

15 C. On the last day of January and July of each
16 year, the New Mexico finance authority shall estimate the
17 amount needed to make debt service and other payments during
18 the next twelve months from the state [~~office~~] building bonding
19 fund on the [~~state-office~~] building [~~tax-revenue~~] bonds issued
20 pursuant to the State [~~Office~~] Building [~~Acquisition~~] Bonding
21 Act plus the amount that may be needed for any required
22 reserves. The New Mexico finance authority shall transfer to
23 the general fund any balance in the state [~~office~~] building
24 bonding fund above the estimated amounts.

25 D. Any balance remaining in the state [~~office~~]

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1 building bonding fund shall be transferred to the general fund
 2 upon certification by the New Mexico finance authority that:

3 (1) the director of the property control
 4 division of the general services department, in the case of
 5 state office building tax revenue bonds, and the state cultural
 6 affairs officer, in the case of state museum tax revenue bonds,
 7 and the New Mexico finance authority have agreed that the
 8 [~~state office~~] building [~~tax revenue~~] bonds issued pursuant to
 9 the State [~~Office~~] Building [~~Acquisition~~] Bonding Act have been
 10 retired, that no additional obligations of the state [~~office~~]
 11 building bonding fund exist and that no additional expenditures
 12 from the fund are necessary; or

13 (2) a court of jurisdiction has ruled that the
 14 [~~state office~~] building [~~tax revenue~~] bonds have been retired,
 15 that no additional obligations of the state [~~office~~] building
 16 bonding fund exist and that no additional expenditures from the
 17 fund are necessary.

18 E. The [~~state office~~] building [~~tax revenue~~] bonds
 19 issued pursuant to the State [~~Office~~] Building [~~Acquisition~~]
 20 Bonding Act shall be payable solely from the state [~~office~~]
 21 building bonding fund or, with the approval of the [~~bond~~
 22 ~~holders~~] bondholders, such other special funds as may be
 23 provided by law and do not create an obligation or indebtedness
 24 of the state within the meaning of any constitutional
 25 provision. No breach of any contractual obligation incurred

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1 pursuant to that act shall impose a pecuniary liability or a
2 charge upon the general credit or taxing power of the state,
3 and the bonds are not general obligations for which the state's
4 full faith and credit is pledged.

5 F. The state does hereby pledge that the state
6 [~~office~~] building bonding fund shall be used only for the
7 purposes specified in this section and pledged first to pay the
8 debt service on the [~~state office~~] building [~~tax revenue~~] bonds
9 issued pursuant to the State [~~Office~~] Building [~~Acquisition~~]
10 Bonding Act. The state further pledges that any law
11 authorizing the distribution of taxes or other revenues to the
12 state [~~office~~] building bonding fund or authorizing
13 expenditures from the fund shall not be amended or repealed or
14 otherwise modified so as to impair the bonds to which the state
15 [~~office~~] building bonding fund is dedicated as provided in this
16 section. "

17 Section 5. Section 6-21C-6 NMSA 1978 (being Laws 2001,
18 Chapter 199, Section 6) is amended to read:

19 "6-21C-6. AUTHORITY TO REFUND BONDS. --The New Mexico
20 finance authority may issue and sell at public or private sale
21 [~~state office~~] building [~~tax revenue~~] bonds to refund
22 outstanding [~~state office~~] building [~~tax revenue~~] bonds by
23 exchange, immediate or prospective redemption, cancellation or
24 escrow, including the escrow of debt service funds accumulated
25 for payment of outstanding bonds, or any combination thereof,

1 when, in its opinion, such action will be beneficial to the
 2 state. "

3 Section 6. Section 6-21C-7 NMSA 1978 (being Laws 2001,
 4 Chapter 199, Section 7) is amended to read:

5 "6-21C-7. [~~STATE OFFICE~~] BUILDING [~~TAX REVENUE~~] BONDS--
 6 FORM - EXECUTION. --

7 A. The New Mexico finance authority, except as
 8 otherwise specifically provided in the State [~~office~~] Building
 9 [~~Acquisition~~] Bonding Act, shall determine at its discretion
 10 the terms, covenants and conditions of [~~state office~~] building
 11 [~~tax revenue~~] bonds, including, but not limited to, date of
 12 issue, denominations, maturities, rate or rates of interest,
 13 call features, call premiums, registration, refundability and
 14 other covenants covering the general and technical aspects of
 15 the issuance of the bonds.

16 B. The [~~state office~~] building [~~tax revenue~~] bonds
 17 shall be in such form as the New Mexico finance authority may
 18 determine, and successive issues shall be identified by
 19 alphabetical, numerical or other proper series designation.

20 C. [~~State office~~] Building [~~tax revenue~~] bonds
 21 shall be signed and attested by the secretary of the New Mexico
 22 finance authority and shall be executed with the facsimile
 23 signature of the chairman of the New Mexico finance authority
 24 and the facsimile seal of the New Mexico finance authority,
 25 except for bonds issued in book entry or similar form without

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1 the delivery of physical securities. Any interest coupons
2 attached to the bonds shall bear the facsimile signature of the
3 secretary of the New Mexico finance authority, which officer,
4 by the execution of the bonds, shall adopt as his own signature
5 the facsimile thereof appearing on the coupons. Except for
6 bonds issued in book entry or similar form without the delivery
7 of physical securities, the Uniform Facsimile Signature of
8 Public Officials Act shall apply, and the New Mexico finance
9 authority shall determine the manual signature to be affixed on
10 the bonds. "

11 Section 7. Section 6-21C-8 NMSA 1978 (being Laws 2001,
12 Chapter 199, Section 8) is amended to read:

13 "6-21C-8. PROCEDURE FOR SALE OF BUILDING BONDS. --

14 A. [~~State office~~] Building [~~tax revenue~~] bonds
15 shall be sold by the New Mexico finance authority at such times
16 and in such manner as the authority may elect, consistent with
17 the need of the property control division of the general
18 services department or the office of cultural affairs, either
19 at private sale for a negotiated price or to the highest bidder
20 at public sale for cash at not less than par and accrued
21 interest.

22 B. In connection with any public sale of [~~state~~
23 ~~office~~] building [~~tax revenue~~] bonds, the New Mexico finance
24 authority shall publish a notice of the time and place of sale
25 in a newspaper of general circulation in the state and also in

1 a recognized financial journal outside the state. Such
 2 publication shall be made once each week for two consecutive
 3 weeks prior to the date fixed for such sale, the last
 4 publication to be two business days prior to the date of sale.
 5 Such notice shall specify the amount, denomination, maturity
 6 and description of the bonds to be offered for sale and the
 7 place, day and hour at which sealed bids therefor shall be
 8 received. All bids, except that of the state, shall be
 9 accompanied by a deposit of two percent of the principal amount
 10 of the bonds. Deposits of unsuccessful bidders shall be
 11 returned upon rejection of the bid. At the time and place
 12 specified in such notice, the New Mexico finance authority
 13 shall open the bids in public and shall award the bonds, or any
 14 part thereof, to the bidder or bidders offering the best price.
 15 The New Mexico finance authority may reject any or all bids and
 16 readvertise.

17 C. The New Mexico finance authority may sell a
 18 [~~state office~~] building [~~tax revenue~~] bond issue, or any part
 19 thereof, to the state or to one or more investment bankers or
 20 institutional investors at private sale."

21 Section 8. Section 6-21C-9 NMSA 1978 (being Laws 2001,
 22 Chapter 199, Section 9) is amended to read:

23 "6-21C-9. STATE [~~OFFICE~~] BUILDING [~~ACQUISITION~~] BONDING
 24 ACT IS FULL AUTHORITY FOR ISSUANCE OF BONDS-- BONDS ARE LEGAL
 25 INVESTMENTS. --

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1 A. The State [~~office~~] Building [~~Acquisition~~]
2 Bonding Act shall, without reference to any other act of the
3 legislature, be full authority for the issuance and sale of
4 [~~state-office~~] building [~~tax-revenue~~] bonds, which bonds shall
5 have all the qualities of investment securities under the
6 Uniform Commercial Code and shall not be invalid for any
7 irregularity or defect or be contestable in the hands of bona
8 fide purchasers or holders thereof for value.

9 B. [~~State-office~~] Building [~~tax-revenue~~] bonds are
10 legal investments for any person or board charged with the
11 investment of any public funds and are acceptable as security
12 for any deposit of public money. "

13 Section 9. Section 6-21C-10 NMSA 1978 (being Laws 2001,
14 Chapter 199, Section 10) is amended to read:

15 "6-21C-10. SUIT MAY BE BROUGHT TO COMPEL PERFORMANCE OF
16 OFFICERS. --Any holder of [~~state-office~~] building [~~tax-revenue~~]
17 bonds or any person or officer being a party in interest may
18 sue to enforce and compel the performance of the provisions of
19 the State [~~office~~] Building [~~Acquisition~~] Bonding Act. "

20 Section 10. Section 6-21C-11 NMSA 1978 (being Laws 2001,
21 Chapter 199, Section 11) is amended to read:

22 "6-21C-11. BUILDING BONDS TAX EXEMPT. --All [~~state-office~~]
23 building [~~tax-revenue~~] bonds shall be exempt from taxation by
24 the state or any of its political subdivisions. "

25 Section 11. Section 7-1-6.42 NMSA 1978 (being Laws 2001,

1 Chapter 199, Section 12) is amended to read:

2 "7-1-6.42. DISTRIBUTION--STATE [~~OFFICE~~] BUILDING BONDING
3 FUND--GROSS RECEIPTS TAX.--A distribution pursuant to Section
4 7-1-6.1 NMSA 1978 shall be made to the state [~~offi~~ee] building
5 bonding fund in the amount of five hundred thousand dollars
6 (\$500,000) from the net receipts attributable to the gross
7 receipts tax imposed by the Gross Receipts and Compensating Tax
8 Act. The distribution shall be made:

9 A. after the required distribution pursuant to
10 Section 7-1-6.4 NMSA 1978;

11 B. contemporaneously with other distributions of
12 net receipts attributable to the gross receipts tax for payment
13 of debt service on outstanding bonds or to a fund dedicated for
14 that purpose; and

15 C. prior to any other distribution of net receipts
16 attributable to the gross receipts tax."

17 Section 12. TEMPORARY PROVISION--OUTSTANDING STATE OFFICE
18 BUILDING TAX REVENUE BONDS--FUND BALANCES.--

19 A. Nothing in this act shall be deemed to impair
20 state office building tax revenue bonds outstanding on the
21 effective date of this act. For the purposes of the
22 obligations incurred with respect to those bonds:

23 (1) the State Office Building Acquisition
24 Bonding Act and the State Building Bonding Act are the same
25 act. The provisions of the State Building Bonding Act apply to

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1 the same extent as the provisions of the State Office Building
2 Acquisition Bonding Act applied prior to the effective date of
3 this act; and

4 (2) the state office building bonding fund and
5 the state building bonding fund are the same fund. Money in
6 the state building bonding fund is pledged for the payment of
7 principal and interest on those bonds to the same extent that
8 the state office building bonding fund was pledged prior to the
9 effective date of this act.

10 B. The state building bonding fund is a new name
11 for the state office building bonding fund and is not a new
12 fund created by this act. The purposes and balances of the
13 state office building bonding fund as they existed before the
14 effective date of this act remain the purposes and balances of
15 the state building bonding fund.

16 Section 13. REPEAL. --Section 6-21C-2 NMSA 1978 (being
17 Laws 2001, Chapter 199, Section 2) is repealed.